

HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KIM MCDONALD,

Plaintiff,

vs.

PORTFOLIO RECOVERY ASSOCIATES,  
LLC, and DELLWO, ROBERTS &  
SCANLON, P.S.,

Defendants.

NO. 2:11-cv-00913-TSZ

ANSWER TO COMPLAINT

COME NOW Defendants Portfolio Recovery Associates, LLC, and Dellwo, Roberts &  
Scanlon, P.S. (hereinafter "Defendants"), and for their answer to Plaintiff's Complaint hereby  
admit, deny and allege as follows:

ANSWER TO COMPLAINT

508834/101711 1352/62760080

- 1 -

Betts  
Patterson  
Mines  
One Convention Place  
Suite 1400  
701 Pike Street  
Seattle, Washington 98101-3927  
(206) 292-9988

**SUMMARY OF CASE**

1  
2 1. Paragraph 1 is a summary to which no answer is required. To the extent a  
3 response is required, Defendants deny the allegations set forth in Paragraph 1 of Plaintiff's  
4 Complaint.

**PARTIES AND JURISDICTION**

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7 2. Defendants are without sufficient knowledge to admit or deny the allegation set  
8 forth in Paragraph 2 of Plaintiff's Complaint and, therefore, deny the same.

9 3. Defendants admit that Portfolio Recovery Associates, LLC is a foreign limited  
10 liability company existing pursuant to the laws of the State of Delaware, that its principal place  
11 of business is in Norfolk, Virginia, and that it is engaged in the business of purchasing debt and  
12 debt collection activities. Whether Portfolio is a "debt collector" as defined by the Fair Debt  
13 Collection Practices Act is a conclusion of law requiring no response from Defendants. To the  
14 extent a response is required, Defendants deny the remaining allegations set forth in Paragraph  
15 3 of Plaintiff's Complaint. Except as expressly admitted, Defendants deny the remaining  
16 allegations set forth in Paragraph 3 of Plaintiff's Complaint.

18 4. Defendants admit that Dellwo, Roberts & Scanlon, P.S. is a Washington  
19 professional services corporation whose business is located in Spokane, Washington. Whether  
20 Dellwo, Roberts & Scanlon is a "debt collector" as defined by the Fair Debt Collection  
21 Practices Act is a conclusion of law requiring no response from Defendants. To the extent a  
22 response is required, Defendants deny the remaining allegations set forth in Paragraph 4 of  
23  
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25

1 Plaintiff's Complaint. Except as expressly admitted, Defendants deny the remaining  
2 allegations set forth in Paragraph 4 of Plaintiff's Complaint.

3 5. Defendants admit that this court has jurisdiction.

4 6. Defendants admit that this court has personal jurisdiction over the Defendants.

5 7. Defendants admit that venue is proper.

6  
7 **COMMON FACTS**

8 8. Defendants are without sufficient knowledge to admit or deny the allegations set  
9 forth in Paragraph 8 of Plaintiff's Complaint and, therefore, deny the same.

10 9. Defendants are without sufficient knowledge to admit or deny the allegations set  
11 forth in Paragraph 9 of Plaintiff's Complaint.

12 10. Defendants admit the allegations set forth in Paragraph 10 of Plaintiff's  
13 Complaint.

14 11. The record in the Portfolio Recovery Associates v. McDonald, Cause No. 95-  
15 13539 matter ("Portfolio Litigation") is a matter of public record and written instrument, which  
16 speaks for itself. Accordingly, no response is required of Defendants.

17 12. Defendants admit that Portfolio filed a motion for summary judgment. The  
18 "Kunkle affidavit" is a written document that speaks for itself. Except as expressly admitted,  
19 Defendants deny the remaining allegations set forth in Paragraph 12 of Plaintiff's Complaint.

20 13. The "Kunkle affidavit" is a written document that speaks for itself and  
21 Paragraph 13 of Plaintiff's Complaint contains no allegations to which a response is require.  
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1 To the extent a response is required, Defendants deny the remaining allegations set forth in  
2 Paragraph 13 of Plaintiff's Complaint.

3 14. Defendants deny the allegations set forth in Paragraph 14 of Plaintiff's  
4 Complaint.

5 15. Defendants are without sufficient knowledge to admit or deny the allegations set  
6 forth in Paragraph 15 of Plaintiff's Complaint and, therefore, deny the same.

7 16. The correspondence referenced in Paragraph 16 of Plaintiff's Complaint consist  
8 of written instruments that speak for themselves. Paragraph 16 contains no allegations to  
9 which a response is required. To the extent a response is required, Defendants deny the  
10 remaining allegations set forth in Paragraph 16 of Plaintiff's Complaint.

11 17. Defendant Scanlon's response is a written instrument that speaks for itself.  
12 Paragraph 17 contains no allegations to which a response is required. To the extent a response  
13 is required, Defendants deny the remaining allegations set forth in Paragraph 17 of Plaintiff's  
14 Complaint.

15 18. Defendants admit the allegations set forth in Paragraph 18 of Plaintiff's  
16 Complaint.

17 19. Defendants are without sufficient knowledge to admit or deny the allegations set  
18 forth in Paragraph 19 of Plaintiff's Complaint and, therefore, deny the same.

19 20. The correspondence referenced in Paragraph 20 of Plaintiff's Complaint is a  
20 written instrument that speaks for itself. Paragraph 20 contains no allegations to which a  
21

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1 response is required. To the extent a response is required, Defendants deny the remaining  
2 allegations set forth in Paragraph 20 of Plaintiff's Complaint..

3 FIRST CLAIM FOR RELIEF  
4 FAIR DEBT COLLECTION PRACTICES ACT  
5 (AGAINST ALL DEFENDANTS)

6 21. Defendants repeat and reincorporate their responses, admissions and denials in  
7 Paragraphs 1 through 20 as if set forth here in full.

8 22. Paragraph 22 of Plaintiff's Complaint Act contains a conclusion of law requiring  
9 no response from Defendants. To the extent a response is required, Defendants deny the  
10 allegations set forth in Paragraph 22 of Plaintiff's Complaint.

11 23. Defendants deny the allegations set forth in Paragraph 23 and its subparts of  
12 Plaintiff's Complaint.

13 24. Defendants are without sufficient knowledge to admit or deny the allegations set  
14 forth in Paragraph 24 of Plaintiff's Complaint and, therefore, deny the same.

15 25. Defendants deny the allegations set forth in Paragraph 25 of Plaintiff's  
16 Complaint.

17 26. Defendants deny the allegations set forth in Paragraph 26 of Plaintiff's  
18 Complaint.

19 27. Defendants deny the allegations set forth in Paragraph 25 of Plaintiff's  
20 Complaint.  
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SECOND CLAIM FOR RELIEF  
INVASION OF PRIVACY/INTRUSION UPON SECLUSION  
(AGAINST ALL DEFENDANTS)

28. Defendants repeat and reincorporate their responses, admissions and denials in Paragraphs 1 through 27 as if set forth here in full.

29. Defendants deny the allegations set forth in Paragraph 29 of Plaintiff's Complaint.

30. Defendants deny the allegations set forth in Paragraph 30 of Plaintiff's Complaint.

31. Defendants deny the allegations set forth in Paragraph 31 of Plaintiff's Complaint.

**PLAINTIFF'S PRAYER**

To the extent a response is required to Plaintiff's prayer for relief, the grounds and basis for such requests are denied.

**AFFIRMATIVE DEFENSES**

By way of further answer and affirmative defenses, Defendants allege as follows:

1. Plaintiff's Complaint, in whole or in part, fails to state a claim upon which relief can be granted.

2. Plaintiff's Complaint fails to name a necessary party.

3. Plaintiff may have failed to mitigate her damages.

**RELIEF REQUESTED**

WHEREFORE, having fully answered Plaintiff's Complaint, and presented affirmative defenses thereto, Defendants pray that Plaintiff take nothing thereby, that Plaintiff's Complaint be dismissed with prejudice and without cause, and that Defendants be awarded their costs, disbursements and attorneys' fees incurred herein to the extent permitted by law.

DATED this 17th day of October, 2011.

BETTS, PATTERSON & MINES, P.S.

By /s/ Charles A. Lyman

Charles A. Lyman, WSBA #30495  
Attorneys for Defendants

**CERTIFICATE OF SERVICE**

I hereby certify that on October 17, 2011, a true and correct copy of the foregoing document was served on the following:

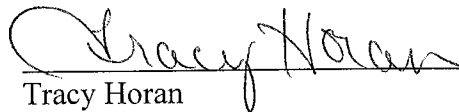
John Heenan  
Heenan Law Firm  
3970 Avenue D, Ste. A  
Billings, MT 59102

☐ U.S. Mail  
☐ Facsimile  
☐ Hand Delivery  
☒ ECF Filing

Justin Baxter  
Baxter & Baxter  
8835 SW Canyon Lane, Ste. 130  
Portland, OR 97225

☐ U.S. Mail  
☐ Facsimile  
☐ Hand Delivery  
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Dated October 17, 2011, at Seattle, Washington.

  
Tracy Horan